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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,123	01/28/2004	Leen Holleman	11953-1960	2104

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,123	Applicant(s) HOLLEMAN, LEEN	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12 and 14-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-9, 11 and 12 is/are allowed.
6) ☒ Claim(s) 14-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 8-1-06 and this action is final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what the openings are as stated in line 19 of the claim in that as seen in line 17 of the claim the wings are opened at the joints which can mean that bending of the wings opens the elbow joint in that it exposes the surfaces of the elbow joint or the opening can mean holes/slits are cut into the elbow joint.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent

No. 5,569,069 to Horst et al.

Referring to claim 14, Horst et al. discloses a method of partially deboning a plurality of right poultry wings and left poultry wings, the right poultry wings removed from the right side of a poultry carcass and the left poultry wings removed from the left side of a poultry carcass – see figure 2, each of the right and left poultry wings having an inside surface that faced a poultry carcass – see figure 2, and an outside surface that faced away from a poultry carcass – see figure 2, a primary segment that was separated from a poultry carcass with a bone extending longitudinally therethrough – see figures 1-2 and column 2 lines 52-67 and column 3 lines 1-63, and a mid-wing segment having a pair of bones extending longitudinally therethrough that are joined to the bone of the primary segment – see figures 1-2, column 2 lines 52-67, column 3 lines 1-67 and column 4 lines 1-16, advancing the right and left wings in sequence along a processing path with the outside of the right wings facing one side of the processing path and with the outside surfaces of the left wings facing in the same direction of the processing path as the outside surfaces of the right wings – see figures 1-2, and with the joints between the segments of the right wings facing oppositely along the processing path to the joints between the segments of the left wings – see figures 1-2, as the wings are advanced bending the primary segments of both right and left wings with respect to the mid-wing segments at the elbow joints about an elbow guide – at 114, positioned on the outside surface so the poultry wings until the elbow joints are opened – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16, and separating the tissue extending between the primary segments and the mid-wing segments at the elbow joints and to

separate the primary wing segments from the mid-wing segments at the elbow joints – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16.

Referring to claim 16, Horst et al. discloses a method of separating the segments of a plurality of right poultry wings and left poultry wings, the right poultry wings having been removed from the right side of a poultry carcass and the left poultry wings having been removed from the left side of a poultry carcass, each of the right and left poultry wings having an inside surface that faced a poultry carcass and an outside surface that faced away from a poultry carcass, a primary segment that was separated from a poultry carcass with a bone extending longitudinally therethrough that are joined at an elbow and a mid-wing segment having a pair of bones extending longitudinally therethrough that are joined at an elbow joint to the bone of the primary segment – see figures 1-2, column 2 lines 52-67, column 3 lines 1-67 and column 4 lines 1-16, advancing the left and right poultry wings in sequence along a processing path with the outside surfaces of the right and left poultry wings facing the same direction and the elbow joints of the right wings facing opposite to the elbow joints of the left wings – see figures 1-2, as the right and left poultry wings are advanced along the processing path moving the outside surfaces of the right and left poultry wings at their elbow joints along an elbow guide – at 114, that extends along the processing path – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16, as the outside surfaces of the right and left poultry wings move along the elbow guide progressively bending the right and left poultry wings at their elbow joints about the elbow guide positioned on the outside surface of the poultry wings to open the elbow joints – see at 114 in figure 4, and separating the primary segments from the mid-wing segments of the left and right poultry wings from one another at the openings in the elbow joints – see at 80-104 in figure 4.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horst et al. as applied to claim 14 above, and further in view of U.S. Patent No. 5,494,479 to Lindert et al.

Referring to claim 15, Horst et al. does not disclose after the primary wing segment has been separated from the mid-wing segment, moving the pair of bones of the mid-wing segment laterally and as the pair of bones are moved laterally popping the bones of the mid-wing segment laterally from the mid-wing segment such that the end of the bones popped from the mid-wing segment are exposed. Lindert et al. does disclose after the primary wing segment has been separated from the mid-wing segment – see figure 5, moving the pair of bones of the mid-wing segment – at 11, laterally and as the pair of bones are moved laterally popping the bones of the mid-wing segment laterally from the mid-wing segment such that the end of the bones popped from the mid-wing segment are exposed – see figures 6a, 7a and 8a. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Horst et al. and add the removing of the bones of the mid-wing segment of Lindert et al., so as to allow for the meat product to be made more appealing to a consumer in that the bones of the meat would not have to be removed by the consumer during preparation of the meat product for consumption.

Allowable Subject Matter

5. Claims 1-9 and 11-12 are allowed.

Response to Arguments

6. Regarding claims 14 and 16, applicant does not claim that during the cutting/separating steps that the right and left wings must be in sequence along the processing path with the joints of the right wings facing oppositely along the processing path to the joints of the left wings. Therefore these arguments are moot. Further, the number of cutters/separators is not claimed and therefore this argument is moot. Further, the direction in which the elbow joint is bent is not claimed and therefore this argument is moot. Further, the Horst et al. reference US 5569069 discloses advancing the right and left wings in sequence along a processing path with the outside of the right wings facing one side of the processing path and with the outside surfaces of the left wings facing in the same direction of the processing path as the outside surfaces of the right wings – see figures 1-2, and with the joints between the segments of the right wings facing oppositely along the processing path to the joints between the segments of the left wings – see figures 1-2, as the wings are advanced bending the primary segments of both right and left wings with respect to the mid-wing segments at the elbow joints about an elbow guide – at 114, positioned on the outside surface so the poultry wings until the elbow joints are opened – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16, and separating the tissue extending between the primary segments and the mid-wing segments at the elbow joints and to separate the

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primary wing segments from the mid-wing segments at the elbow joints – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16.

Regarding claim 15, the Lindert et al. reference US 5494479 discloses separating portions of the wing from each other as seen – at 22 in figure 3. Lindert et al. further discloses moving the bones laterally and popping the bones of the mid-wing laterally from the mid-wing segment as seen in figure 8a

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER